

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JEFORY MASHBURN, et al.,

Plaintiffs,

v.

YAMHILL COUNTY, et al.,

Defendants.

No. 3:08-cv-00718-HU

OPINION AND ORDER

MOSMAN, J.,

On September 28, 2012, Magistrate Judge Hubel issued his Findings and Recommendation (“F&R”) [209] in the above-captioned case recommending that plaintiffs’ partial motion for summary judgment [167] be granted in part and denied in part and that defendants’ partial motion for summary judgment [183] be granted in part and denied in part. Plaintiffs objected [212]. Defendants objected [213] and responded to plaintiffs’ objections [214].

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to

make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I ADOPT in part and MODIFY in part the F&R [209], as stated on the record on November 16, 2012.

IT IS SO ORDERED.

DATED this 19th day of November, 2012.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge